HON'BLE SRI JUSTICE P.S. NARAYANA

W.P.No.18375 of 2006

Date : 2-1-2007

Between :

Nalla Bhudevi alias
Nalla Bhoolaxmi
and others .. Petitioners

and

The Gram Panchayat, Choppadandi
and another ..
Respondents

HON'BLE SRI JUSTICE P.S. NARAYANA

W.P.No.18375 of 2006

ORDER:

1. Heard Ms.P.Aruna, Counsel representing the writ petitioners and Sri Prem Sagar, the learned standing Counsel representing the respondents.

2. The Writ Petition is filed for a writ of mandamus declaring the action of the respondents in issuing the impugned notice dated 27-8-2006 for initiating action against the petitioners as bad, illegal, arbitrary apart from the same being in violation of principles of natural justice and to set aside the same and consequently to direct the respondents not to interfere in the possession and enjoyment of property being part of house No.16-6 in Sy.No.273/1-2 of Choppadandi village and Mandal, Karimnagar District and to pass such other suitable orders.

3. It is stated that the father of the 2nd petitioner purchased plot in Sy.No.273/1-2 from K.Venkat Reddy in

the name of 1st petitioner who is the mother of the 2nd petitioner. The 1st petitioner had obtained building permission from the respondents vide No.A1/94/2004 dated 10-5-2005 and completed construction of ground floor as per approved plan. The respondents had collected Rs.600/- on 10-5-2005 vide receipt No.004420 towards building permission fee. The respondents had also allotted door number to the house as 16-6. It is further stated that the 1st petitioner had applied for building permission for constructing 1st floor on the existing ground floor house No.16-6 and the respondents had granted permission as per the resolution of Gram Panchayat 3-15 dated 25-1-2005 and the building permission had been given to her vide No.A1/GPC/110/2006 dated 25-2-2006. The respondents had collected Rs.800/- vide receipt No.537 dated 25-2-2006 towards building permission fee. The 1st petitioner had constructed the first floor as per the approved plan. It is further stated that the 1st petitioner had kept open place 12' x 8' on Eastern side adjoining the road from Choppadandi to Bhoopalapatnam. The 1st petitioner gave the said plot to the 2nd petitioner by way of gift. On 20-4-2006 the 2nd petitioner submitted an application before the respondents requesting to grant building permission but the respondents had neither granted the building permission nor refused the

same. The application submitted by the 2nd petitioner had not been disposed of within the period of 15 days as provided by proviso to Section 126(3) of A.P. Panchayat Raj Act and hence it is deemed that licence or permission had been granted. After waiting for more than two months, the 2nd petitioner completed the construction as per the plan submitted before the respondents on 20-4-2006. It is further stated that the ward members elected recently are on inimical terms with the father of the 2nd petitioner and it appears they had filed an objection before the respondents on 27-8-2006 complaining against the construction made by the 2nd petitioner. On the basis of the complaint, the respondents had issued notice dated 27-8-2006 to the 2nd petitioner and in the said notice there is no reference of filing the application by the 2nd petitioner for granting the building permission. It is stated that in fact the earlier building permissions granted by the respondents are in the name of the 1st petitioner and the 3rd respondent has no concern with the construction now made in the site on the Eastern side of house No.6-16. It is also stated that petitioners 1 and 2 were not given notice and the impugned notice was given by the respondents to the 3rd petitioner in undue haste without verifying the facts and also totally ignoring the application already submitted.

4. In the counter affidavit filed by the respondents specific stand is taken that the writ petitioner has been making construction of the house without obtaining permission from the Gram Panchayat and further it is stated that the writ petitioners had not made an application to the Gram Panchayat for construction of the building as per the lay out and building rules 2002 in G.O.Ms.No.67, PR&RD dated 26-2-2002 and if such an application is made the respondents-Gram Panchayat will consider and grant permission as per the existing rules. The writ petitioners without making any application for construction of the building started construction illegally. Hence it is stated that the respondents issued notice on 27-8-2006 to the 3rd petitioner to stop the unlawful construction.

5. In the light of the specific stand taken by the respective parties, it appears the notice had been addressed to the 3rd petitioner only. The petitioners had taken a specific stand that the 2nd petitioner made an application praying for building permission in accordance with law on 20-4-2006. However, this fact is denied in the counter affidavit. In the peculiar facts and circumstances and also in the light of the specific stand taken by the respondents, the petitioners are hereby given liberty to file appropriate application praying for building permission in accordance with law within a period of two weeks from the

date of receipt of this order and the respondents to consider the same and dispose of such application which may be made by the petitioners in this regard in accordance with law within a period of four weeks thereafter. Till such exercise is completed, status obtaining as on today to be maintained.

6. The Writ Petition is disposed of accordingly. No costs.

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Justice

P.S.Narayana
Date : 2-1-2007

Note: Furnish copy in two days.
AM